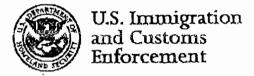
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BATAVIA DEPUKTATION

Office of Enforcement and Removal Operations

U.S. Department of Homeland Security **Buffalo Federal Detention Facility** 4250 Federal Drive Batavia, NY 14020



Date: 2/11/2019

MEMORANDUM FOR:

Magistrate Judge D. Freeman

U.S. District Court for the Southern District of New York

FROM:

Deportation Office

SUBJECT:

Lyxon CHERY, 1:17-cv-00157-PKC-DCF

Lyxon CHERY, A200 474 160, DOB: 12/28/1959, received a final order of removal from the United States to Haiti from an Immigration Judge on August 28, 2018. Mr. CHERY appealed this decision to the Board of Immigration Appeals (BIA). On January 25, 2019, the BIA dismissed the appeal. ICE is currently in the process of setting up Mr. CHERY for removal from the United States to Haiti. He is expected to be removed the first week of March, 2019. If you have any further questions, please feel free to contact me directly at 716.364.3995.

Currently pending before this can't is a petiton by Mr. Chery for a unit of habeas corpus pursuant to 2+ 4.5.C. \$2254. See Cherry v. Cunningham, 17 cv 00157 (PKC) (BF). This court, however, does not have juisdiction to stay Mr. Chery's sprail order of removal pendig the resolution of his habias petitori. See f u.s.c. \$ 12.52(a) (t); see also Eisà v. ICE, No. 08 cu 6204(FM), 2008 WL 4223618, at * 4 (S.D.N.Y. Sept. 11, 2008). accordingly, if Mr. Chery wishes & make an application for an emergency stay of the removal order, he should direct that application to the United States count of Appeals of the second circuit.

> DATE: 2/11/19 SO ORDERED:

DEBRA FREEMAN UNITED STATES MAGISTRATE JUDGE

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